

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JACOB IVAN SCHMITT

Petitioner,

v.

HOWARD C. BARRON,

Respondent.

Case No. C23-1398-JLR-MLP

ORDER REFERRING CASE TO  
FEDERAL PUBLIC DEFENDER FOR  
REVIEW

Petitioner Jacob Ivan Schmitt has filed a petition for federal habeas relief pursuant to 28 U.S.C. § 2241 and a motion to appoint counsel. (Dkt. ## 5, 9.) While there is no constitutional right to appointment of counsel in actions brought under § 2241, the Court may exercise its discretion to appoint counsel for a financially eligible individual where the “interests of justice so require.” 18 U.S.C. § 3006A(a)(2); *see also Weygandt v. Look*, 718 F.2d 952 (9th Cir. 1983).

In this case, Petitioner’s underlying habeas petition alleges the Federal Bureau of Prisons has miscalculated his sentence because it refuses to apply earned time credits he is entitled to under the First Step Act, 18 U.S.C. § 3632(d), toward his remaining sentence. (Dkt. # 5.) At the time of his habeas petition submission, Petitioner indicated he only had 67 days remaining to

ORDER REFERRING CASE TO  
FEDERAL PUBLIC DEFENDER  
FOR REVIEW - 1

1 serve on his sentence, and that the application of earned time credits would entitle him to  
2 immediate release from custody. (*Id.* at 1-2.)

3 Due to the emergent nature of Petitioner's requested relief, and the complex issues  
4 involved in this case, it appears from the record that appointment of counsel may be warranted in  
5 the instant action. However, the Court has insufficient information at present to determine  
6 whether Petitioner financially qualifies for such an appointment under § 3006A.

7 Accordingly, the Court hereby ORDERS as follows:

8 (1) This matter is referred to the Office of the Federal Public Defender for review.

9 (2) Within **seven (7) days** of the date on which this Order is signed, the Office of the  
10 Federal Public Defender shall advise the Court whether it intends to seek appointment in this  
11 matter. If the Office of the Federal Public Defender determines that it will seek appointment in  
12 this matter, it shall assist Petitioner in preparing a financial affidavit which will allow the Court  
13 to determine whether petitioner is financially eligible for such an appointment.

14 (3) The Clerk is directed to send copies of this Order to Petitioner, to counsel for  
15 Respondent, to the Office of the Federal Public Defender, and to the Honorable James L. Robart.

16 DATED this 25th day of September, 2023.

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19 MICHELLE L. PETERSON  
20 United States Magistrate Judge  
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ORDER REFERRING CASE TO  
FEDERAL PUBLIC DEFENDER  
FOR REVIEW - 2